

ORDINANCE NO. 2016-_____

AN ORDINANCE MODIFYING ALCOHOLIC BEVERAGE CONTROL THEREBY AMENDING
CHAPTERS 13 OF THE CITY CODE

The City Council of the City of Bloomington hereby ordains: That Chapter 13 of the City Code is hereby amended by deleting those words that are in ~~[strike through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 13: ALCOHOLIC BEVERAGE CONTROL

* * *

ARTICLE I: 3.2% MALT LIQUOR

* * *

§ 13.01.01 DEFINITIONS

The following words and terms when used in this Article I shall have the following meanings, unless the context clearly indicates otherwise.

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume.

ALCOHOLIC BEVERAGE TASTING. An event of not more than four hours duration at which persons pay a fee or donation to participate, and are allowed to consume wine, malt liquor, or both, by the glass without paying a separate charge for each glass.

BAR. A counter at which 3.2% malt liquor, intoxicating liquor or wine is served.

BREWER. A person who manufactures malt liquor for sale.

BREW PUB. A brewer who conducts retail on-sale intoxicating liquor or 3.2% malt liquor transactions at a restaurant operated in the place where the brewer manufactures fewer than 3,500 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises in 64-ounce containers, commonly known as “growlers.”

CLUB. An incorporated organization organized under the laws of the state for civic, fraternal, social or business purposes, for intellectual improvement, or a congressionally chartered veterans’ organization, which:

- (1) Has more than 50 members;
- (2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and
- (3) Is directed by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

DINNER THEATER. Any establishment providing live entertainment in a theater setting, but also providing a meal for at least 70% of those in attendance, and having a seating capacity of at least 350 seats at tables. A performance within the ***DINNER THEATER*** may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a theater under this definition. Alcohol may be served only during the dinner service and performance. Only performance ticket holders may purchase alcoholic beverages for consumption on the premises.

DISTILLED SPIRITS. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

ENTERTAINMENT FACILITY. An establishment which includes restaurants and multiple amusement rides and devices located within a compact and contiguous space.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, 3.2% malt liquor, beverages for mixing with intoxicating

liquor, soft drinks, cork extraction devices and books and videos on the use of alcoholic beverages in the preparation of food.

FIRE SAFETY PLAN. Site plan of intended premises to be covered by special event liquor license, or temporarily expanded area covered by the liquor license, depicting all means of ingress and egress and location of all life safety devices, tents and temporary structures, as well as any appurtenant equipment, including propane storage tanks and vaporizers. Site plan must also include the total occupancy loading limits for the area to be covered by the license.

FISCAL YEAR. The 12-month period used for accounting and income tax purposes.

GAMBLING DEVICE. A contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. It includes any video game of chance, as defined by M.S. § 609.75, subd. 8, as it may be amended from time to time, that is not in compliance with M.S. Ch. 349; as it may be amended from time to time.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has:

- (1) A resident proprietor or manager;
- (2) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and
- (3) At least 50 guest rooms.

INTEREST. Any pecuniary interest in the ownership, operation, management or profits of an establishment, including a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration, excluding gifts or donations. **INTEREST** does not include: (1) Bona fide loans; (2) Bona fide rental agreements; (3) Bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment; (4) An interest of 5% or less in any corporation or partnership holding a license; or (5) An interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith. In determining whether an **INTEREST** exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this chapter must be considered.

INTOXICATING LIQUOR. Ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2% of alcohol by weight.

ISSUING AUTHORITY. The City of Bloomington Business License Section.

LICENSED PREMISES. The premises described in the approved license application, provided that the space is compact and contiguous. In the case of a restaurant licensed for on-sales of alcoholic beverages and located on a golf course, **LICENSED PREMISES** means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LOBBY. A vestibule or entrance open to the general public that is physically separated and distinct from retail establishments that are accessible from the vestibule or entrance through doors.

MALT LIQUOR. Any beer, ale or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.

MANUFACTURER. A person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces 3.2% malt liquor, wine or intoxicating liquor for sale.

MEAL. Entrees, appetizers and sandwiches offered on a restaurant menu.

MINOR. Any person who has not attained the age of 21.

NIGHTCLUB. An establishment open at night which includes a restaurant, live or recorded music, space for public dancing and a stage for live entertainment.

NONPROFIT CHARITABLE, RELIGIOUS AND POLITICAL ORGANIZATIONS. Tax-exempt nonprofit, charitable and religious organizations pursuant to § 501(c) of the Internal Revenue Code or

tax-exempt political organizations under § 527 of the Internal Revenue Code and registered pursuant to M.S. § 10A.14, as it may be amended from time to time, and have been in existence for at least three years.

NON-PROFIT THEATER. Any theater owned or operated by a non-profit organization, organized under § 501(c) of the Internal Revenue Code, which contains at least 300 seats. The non-profit organization must emphasize theater related goals in its mission statement. A **NON-PROFIT THEATER** must also meet the definition of “theater” in this section.

OFF-SALE. The sale of 3.2% malt liquor, intoxicating liquor or wine in original packages for consumption off the licensed premises only.

ON-SALE. The sale of 3.2% malt liquor, intoxicating liquor or wine for consumption on the licensed premises only.

ORIGINAL PACKAGE. The sealed container in which the 3.2% malt liquor, wine or intoxicating liquor is placed by the manufacturer.

PARKING, PEDESTRIAN CIRCULATION AND TRAFFIC DIRECTIONAL PLAN. Depiction of all private parking areas reserved and public parking areas available for an event covered by a special event liquor license or temporarily expanded area covered by the liquor license, as well as the planned pedestrian circulation to and from those parking areas to the premises covered by license. **PLAN** must also include a traffic directional plan and the designation and posting of fire egress lanes.

PERSON. One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

PLACE OF ASSEMBLY FOR WORSHIP. A building that is principally used as a place where people of the same faith or religion regularly assemble for worship.

PUBLIC CONCOURSE. A corridor or hallway open to the general public that is physically separate and distinct from the retail establishments or stores that are accessible from the corridor or hallway through doors.

RESTAURANT. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities to serve meals, entrees or sandwiches offered on a menu, for seating not less than 50 guests at one time, and where in consideration of payment therefor, meals, entrees or sandwiches offered on a menu, are regularly served at tables to the general public, and which employs an adequate staff for the usual and suitable service to its guests and the principal part of the business of which is the serving of food.

RETAIL. The sale of intoxicating liquor, wine or 3.2% malt liquor to ultimate customers for consumption.

SALE and SELL. All barter and all manners or means of furnishing 3.2% malt liquor, wine or intoxicating liquor.

SCHOOL. A building that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a **SCHOOL** for purposes of this chapter.

SECURITY PLAN. Description of the on-site and off-site security measures available to assist the license applicant in monitoring the sales conducted pursuant to a special event liquor license, or temporarily expanded area covered by the liquor license, so that: no violation of the laws relating to the sale or service of alcoholic beverages occurs; conditions of sobriety and order are maintained; the special event covered by the liquor license is not likely to disturb the peace, quiet and repose of the surrounding areas or contribute to crime, disorderly conduct, noise, traffic, litter or parking problems in the area; consumption of on-sale alcoholic beverages is limited to the approved license premises; and illegal activities on the premises covered by a special event liquor license, or temporarily expanded area covered by the liquor license, are prevented.

THEATER. Any establishment containing an auditorium in which live performances are held regularly to performance ticket holders, which contains at least 300 seats. A performance within the **THEATER**

may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a **THEATER** under this definition. Alcohol may be served only during the hours in which the performance takes place and one hour before curtain. Only performance ticket holders may purchase alcoholic beverages for consumption on the premises.

3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

WHOLESALE. The sale of intoxicating liquor, wine or 3.2% malt liquor to municipal liquor stores, government instrumentalities or holders of retail licenses under this chapter or state law.

WHOLESALE. A person who sells 3.2% malt liquor, wine or intoxicating liquor to municipal liquor stores, government instrumentalities or holders of retail licenses under this chapter or state law.

WINE. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than 0.5% nor more than 24% alcohol by volume for nonindustrial use. **WINE** does not include distilled spirits as defined herein.

~~[**WINE TASTING EVENT.** An event of not more than four hours duration at which persons pay a fee or donation to participate, and are allowed to consume wine by the glass without paying a separate charge for each glass.]~~

* * *

ARTICLE II: WINE

* * *

§ 13.31 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee under this Article II shall make no sale of or furnish any alcoholic beverage during the following hours on the following days, unless the licensee is a theater , non-profit theater or dinner theater:

Monday through Saturday	No sales between 2:00 a.m. and 8:00 a.m. provided that the licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 144.411 et seq., as they may be amended from time to time
Sunday	No sales between 2:00 a.m. and 8:00 [10:00] a.m. provided that the licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 144.411 et seq., as they may be amended from time to time

An on-sale licensee under this Article II may remain open for the sale of food and/or nonalcoholic beverages during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the licensee has proper food licenses under Chapter 14 of the city code and provided the licensee meets each of the following requirements.

(1) By 2:30 a.m., the licensee shall remove all alcoholic beverages from the restaurant , bar and banquet room areas of the licensed premises .

(2) No public display of alcoholic beverages shall be allowed during the hours the service of alcoholic beverages is prohibited by this code and state law, as required by Minnesota Rules part 7515.0560, subpart 3, and § 13.52(h) of the city code. All liquor stock in areas accessible by the general public shall be covered or otherwise made not available for public display.

(3) The licensed establishment must be located in an area of the city that is zoned for food service between 1:00 a.m. and 6:00 a.m. pursuant to Chapters 19 and 21 of the city code.

No licensee may sell wine between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the State Commissioner of Public Safety and has been issued a special license by the city. A licensee may sell wine until 4:00 a.m. during the period from 12:00 p.m. on August 31, 2008, through 4:00 a.m. on September 5, 2008, upon issuance by the city of a special permit and payment of a permit fee as set forth in § 14.03 of this code.

* * *

§ 13.37.02 LICENSE TO SELL INTOXICATING MALT LIQUOR.

The holder of an on-sale wine license issued pursuant to state law and this section of the city code who is also licensed to sell on-sale 3.2% malt liquor pursuant to state law and this code~~[, and whose gross receipts are at least 60% attributable to the sale of food and non-alcoholic beverages]~~ is authorized to sell intoxicating malt liquor at on-sale without an additional license~~[, provided that valid sales figures are submitted to the issuing authority at the time the on-sale wine license is renewed].~~

* * *

ARTICLE III: INTOXICATING LIQUOR

* * *

§ 13.50 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee under this Article III shall make no sale of or furnish any alcoholic beverage during the following hours on the following days, unless the licensee is a theater or dinner theater.

	Off-Sale Licensees	On-Sale Licensees
Monday through Thursday	No sales before 8:00 a.m. nor after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.
Friday and Saturday	No sales before 8:00 a.m. nor after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.
Sunday	No sales	No sales after 2:00 a.m. except a holder of a current Sunday liquor license under this Article III may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours <u>8:00</u> [10:00] a.m. Sundays and 2:00 a.m. Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 14.411 through 14.417, as they may be amended from time to time

July 3 (if not a Sunday)	No sales before 8:00 a.m. nor after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.
The day preceding Thanksgiving Day	No sales before 8:00 a.m. nor after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.
Thanksgiving Day	No sales	No sales between 2:00 a.m. and 8:00 a.m.
December 24	No sales before 8:00 a.m. nor after 8:00 p.m., unless December 24 is a Sunday, in which case no sales	Refer to the day of week restrictions above
December 25	No sales	Refer to the day of week restrictions above
December 31 (if not a Sunday)	No sales before 8:00 a.m. nor after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.

An on-sale licensee under this Article III may remain open for the sale of food and/or nonalcoholic beverages during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the licensee has proper food licenses under Chapter 14 of the city code and provided the licensee meets each of the following requirements:

- (1) By 10:00 p.m., all malt liquor sold at a licensed brewpub must be removed from the licensed premises ;
- (2) By 2:30 a.m., the licensee shall remove all alcoholic beverages from the restaurant, bar and banquet room areas of the licensed premises ;
- (3) No public display of alcoholic beverages shall be allowed during the hours the service of alcoholic beverages is prohibited by this code and state law, as required by Minnesota Rules part 7515.0560, subpart 3, and § 13.52(h) of the city code. All liquor stock in areas accessible by the general public shall be covered or otherwise made not available for public display.
- (4) No on-sale licensee may sell alcoholic beverages between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the State Commissioner of Public Safety and has been issued a special license by the city. A licensee may sell alcoholic beverages until 4:00 a.m. during the period from 12:00 p.m. on August 31, 2008 through 4:00 a.m. on September 5, 2008 upon issuance by the city of a special permit and payment of a permit fee as set forth in § 14.03 of this code.

* * *

§ 13.57.01 SPECIAL EVENT ON-SALE INTOXICATING LIQUOR LICENSES.

(a) *Limited to nonprofit charitable, religious or political organizations.* The applicant must constitute a nonprofit charitable or religious organization as defined in § 13.01.01 of this chapter and have been in existence for at least three years or a political committee registered under M.S. § 10A.14, as it may be amended from time to time. The applicant may obtain an on-sale license to sell intoxicating liquor for consumption on the premises specified in the license subject to the following conditions.

(1) *Limit on number.* No individual organization shall be granted more than three four-day, four three-day or six two-day special event licenses in any combination not to exceed 12 days per year. No individual organization shall be granted more than one special event license within any 30-day period.

(2) *Location requirements.* No more than three special events shall take place on any one location within a 12-month period.

(3) *Number of days.* A special event license may authorize the on-sale of intoxicating liquor for not more than four consecutive days.

(4) *Ownership of location.* A special event license may authorize the on-sale of intoxicating liquor on premises other than premises the licensee owns or permanently occupies.

(5) *Contract for liquor services; insurance.* The special event licensee shall contract for liquor services with the holder of an on-sale intoxicating liquor license or if no such contract with a holder of an on-sale license is provided, the licensee shall provide liquor liability insurance covering the event.

(6) *State approval.* All special event licenses shall be approved by the Commissioner of Public Safety pursuant to M.S. § 340A.404, subd. 10, as it may be amended from time to time.

(7) *School prohibition.* No special event license shall be issued on school grounds or in school buildings or within 300 feet thereof during regularly scheduled classes.

(8) Alcoholic beverage [~~Wine~~] tasting events. A charitable, religious or other nonprofit organization or committee or a registered political committee may conduct an alcoholic beverage [~~wine~~] tasting on premises the organization or committee owns or leases or has use donated to it, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license, if the organization or committee holds a special event on-sale intoxicating liquor license under this section and state law, and if the organization or committee complies with this subsection (a)(8). An organization or committee holding a temporary license may be assisted in conducting the alcoholic beverage [~~wine~~] tasting by another nonprofit organization or committee. An organization or committee that conducts an alcoholic beverage [~~wine~~] tasting under this section may use the net proceeds from the alcoholic beverage [~~wine~~] tasting only for: (A) the organization's or committee's primary nonprofit purpose; or (B) donation to another nonprofit organization or committee assisting in the alcoholic beverage [~~wine~~] tasting, if the other nonprofit organization or committee uses the donation only for that organization's or committee's primary nonprofit purpose. No malt liquor or wine at an alcoholic beverage [~~wine~~] tasting may be sold, or orders taken, for off-premises consumption. An organization or committee may purchase or otherwise obtain malt liquor or wine for an alcoholic beverage [~~wine~~] tasting conducted under this section from wholesalers licensed to sell malt liquor or wine, and the wholesaler may sell or give malt liquor or wine to an organization or committee for an alcoholic beverage [~~wine~~] tasting under this section and may provide personnel to assist in the alcoholic beverage [~~wine~~] tasting event. A wholesaler who sells or gives malt liquor or wine to an organization or committee for an alcoholic beverage [~~wine~~] tasting under this section may deliver the malt liquor or wine directly to the location where the alcoholic beverage [~~wine~~] tasting is conducted. This section does not prohibit or restrict an alcoholic beverage [~~wine~~] tasting that is located on on-sale premises where no charitable organization is participating or located on on-sale premises where the proceeds are for a designated charity but where the tasting is primarily for educational purposes.

(b) *License application.* The application for an on-sale special event intoxicating liquor license shall be made on forms provided by the issuing authority and shall request the following information:

(1) The name, address and purpose of the nonprofit, charitable or religious organization or political organization together with the names and addresses of its officers and evidence of nonprofit tax exempt status pursuant to §§ 501(c) or 527 of the Internal Revenue Code;

- (2) The purpose for which the special event on-sale liquor license is sought, together with the place dates and hours during which intoxicating liquor is to be sold;
- (3) The full name, date of birth and street residence address of the person in charge of and responsible for the special event and who will be present during the event to monitor sales ;
- (4) The location of the special event, along with a site plan of the compact and contiguous area from which alcoholic beverages are to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the license;
- (5) A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal, as deemed necessary by the issuing authority, along with such other information as the issuing authority deems necessary;
- (6) Evidence of insurance with the same coverage limits and provisions as required for the issuance of an “on-sale” license for an establishment with sales of intoxicating liquor pursuant to § 13.54 of this city code; and
- (7) Payment of the license fee set forth in § 14.03 of this city code.
- (c) *License consideration.* After a hearing, the City Council shall accept or deny the application. The City Council may deny, revoke, suspend or refuse to renew a special event license for any of the following reasons:
- (1) A finding that the existence of temporary liquor is adverse to the public health, safety and welfare, disturbing the peace, quiet or repose of surrounding residential or commercial areas;
- (2) A finding that the existence of a special event with on-sale intoxicating liquor will contribute to crime, disorderly conduct, noise, traffic, litter or parking problems in the area or that inadequate measures have been taken to control access to licensed premises to ensure that alcoholic beverages will not be furnished to persons under the age of 21 years or obviously intoxicated persons or carried outside of the licensed premises ;
- (3) Any violation of the law relating to the sale or service of alcoholic beverages;
- (4) Any violation of the terms of this section of the city code; and
- (5) Any other good cause related to the operation of the establishment.
- (d) *Governing law.* Licenses issued under this section are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable except M.S. § 340A.409 and M.S. § 340A.504, subd. 3(d), as they may be amended from time to time.
- (e) *License fee.* The fee for a special event on-sale intoxicating liquor license shall be as set forth in § 14.03 of this code.

* * *

ARTICLE IV: BOTTLE CLUBS

* * *

§ 13.70 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee under this Article IV shall make no sale of or furnish any nonalcoholic beverage during the following hours on the following days:

Monday through Saturday	No sales between 1:00 a.m. and 8:00 a.m.
Sunday	No sales between 1:00 a.m. and <u>8:00</u> [10:00] a.m.
December 25	No sales before 8:00 a.m., unless December 25 is a

	Sunday, in which case no sales
--	--------------------------------

* * *

Passed and adopted this _____ day of _____ 2016.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney